

REMARKS

In the Final Office Action,¹ the Examiner rejected claims 2-5, 7, and 8 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,739,548² to Revital et al. ("Revital") in view of U.S. Patent Application Publication No. 2002/0001386 of Akiyama ("Akiyama") and in view of U.S. Patent No. 7,310,810 to Hamada et al. ("Hamada"). In response to the Final Office Action, Applicants filed an Amendment After Final on September 14, 2010. In the Advisory Action mailed September 23, 2010,³ the Examiner indicated that the proposed amendments would not be entered because a new search and consideration are required. Advisory Action at 2. The Examiner also made several statements mischaracterizing the related art and the claims.

Applicants herewith file a Request for Continued for Examination, and request entry of the proposed amendments previously submitted in the Amendment After Final. By this Amendment, Applicants have additionally amended claims 2, 7, and 8. Claims 2-5, 7, and 8 are currently pending, with claims 2, 7, and 8 being independent. Based on the foregoing amendments and the following remarks, Applicants respectfully request reconsideration and withdrawal of the § 103(a) rejection.

¹ The Final Office Action may contain statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Final Office Action.

² Although the Final Office Action cites U.S. Patent No. 7,739,548, the Examiner informed Applicants' representative via telephone on April 29, 2009, that the Examiner should have cited U.S. Patent No. 7,379,548. Applicants respectfully request appropriate corrections in any future correspondence.

³ The Advisory Action may contain statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Advisory Action.

I. The § 103(a) Rejection of Claims 2-5, 7, and 8

For at least the reasons explained in the Amendment After Final submitted on September 14, 2010, Applicants request reconsideration and withdrawal of the § 103(a) rejection of claims 2-5, 7, and 8 based on Revital, Akiyama, and Hamada.

In the Advisory Action, the Examiner additionally asserted that “[s]ince the claim requires that both sublicenses are added to the first content, they arrive together with the first content.” Advisory Action at 2. “Merely calling them separate does no impart a specific meaning because they arrive together.” Id.

The Examiner’s assertions mischaracterize the claims and therefore are incorrect. The claims do not require that the first sublicense and the second sublicense arrive together. For example, claims 2, 7, and 8 recite, among other things, that “the sublicense acquisition means acquires the first sublicense and the second sublicense while the first content is being acquired.” The recitation that the first sublicense and the second sublicense are acquired while the first content is being acquired does not require that the first sublicense and the second sublicense arrive together. In an effort to advance prosecution, however, Applicants have amended claims 2, 7, and 8 to delete the recitation “the first sublicense and the second sublicense being added to the first content.”

The Examiner further asserted that “[t]his new feature however does not make them distinguishable to an ECM containing multiple sublicenses that are specific to individual contents.” Advisory Action at 2. “Therefore, no patentable weight would be given to the word ‘separate’ as presented in the proposed amendments.” Id. Applicants submit that “[a]ll words in a claim must be considered in judging the patentability of that

claim against the prior art.” M.P.E.P. § 2143.03 (citing In re Wilson, 424 F.2d 1382, 1385 (CCPA 1970)). Therefore, the Examiner cannot conveniently ignore the word “separate” simply because the cited references fail to teach or suggest such feature. In an effort to advance prosecution, however, Applicants have amended claims 2, 7, and 8 to recite “the first sublicense and the second sublicense being separate in a manner that the first sublicense includes the sublicense key information that is different from the sublicense key information of the second sublicense.” Nowhere does Hamada teach or suggest that an ECM has three different keys for each of the three different musical pieces. See Hamada, col. 11, line 64 - col. 12, line 11. Therefore, Hamada does not teach or suggest “an ECM containing multiple sublicenses,” as asserted by the Examiner, and “the first sublicense and the second sublicense being separate in a manner that the first sublicense includes the sublicense key information that is different from the sublicense key information of the second sublicense,” as recited in claims 2, 7, and 8.

In addition, the ECM of Hamada is acquired before any of the three musical pieces are downloaded. See Hamada, col. 17, lines 4-13. Therefore, Hamada fails to teach or suggest that “the sublicense acquisition means acquires the first sublicense and the second sublicense while the first content is being acquired,” as recited in claims 2, 7, and 8. The Examiner fails to address this recitation in the Advisory Action.

For at least these additional reasons, the Final Office Action has failed to clearly articulate a reason why claims 2-5, 7, and 8 would have been obvious to one of ordinary skill in the art in view of the prior art. Accordingly, a *prima facie* case of obviousness

has not been established with respect to claims 2-5, 7, and 8, and the rejection under 35 U.S.C. § 103(a) should be withdrawn.

II. Conclusion

In view of the foregoing, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

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By: /David W. Hill/
David W. Hill
Reg. No. 28,220